

SUMMARY REPORT OF INVESTIGATION¹**I. EXECUTIVE SUMMARY**

Date of Incident:	April 25, 2017
Time of Incident:	Approximately 16:00 Hours
Location of Incident:	1621 N. Keystone Avenue, Chicago, IL 60639
Date of COPA Notification:	May 03, 2017
Time of COPA Notification:	10:07 Hours

On April 25, 2017, at approximately 16:00 hours, police officers responded to a call of a man with a gun in an alley blocking traffic. When officers arrived at the scene, they found the Complainant, [REDACTED] in his Comcast work vehicle. [REDACTED] and his vehicle were searched by responding officers and nothing was recovered. [REDACTED] was released. The responding officers failed to document the stop with an Investigatory Stop Report.

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED] Star #: [REDACTED] Employee ID#: [REDACTED] DOA: [REDACTED] [REDACTED] 1999, Sergeant, UOA: [REDACTED] District, DOB: [REDACTED] 1970, Male, White
Involved Officer #2:	[REDACTED] Star #: [REDACTED] Employee ID#: [REDACTED] DOA: [REDACTED] 2015, Police Officer, UOA: [REDACTED] District, DOB: [REDACTED] 1984, Male, White
Involved Officer #3:	[REDACTED] Star #: [REDACTED] Employee ID#: [REDACTED] [REDACTED] DOA: [REDACTED] 2013, Police Officer, UOA: [REDACTED] District, DOB: [REDACTED] 1981, Male, Black
Involved Officer #4:	[REDACTED] Star #: [REDACTED] Employee ID#: [REDACTED] DOA: [REDACTED] 2013, Police Officer, UOA: [REDACTED] District, DOB: [REDACTED] 1986, Male, White
Involved Officer #5:	[REDACTED] Star #: [REDACTED] Employee ID#: [REDACTED] DOA: [REDACTED] 2003, Police Officer, UOA: [REDACTED] District, DOB: [REDACTED] 1972, Male, Hispanic

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

Involved Officer #6:

Star #: [REDACTED] Employee ID#: [REDACTED]
 DOA: [REDACTED] 2014, Police Officer, UOA: [REDACTED] District,
 DOB: [REDACTED] 1983, Male, White Hispanic

Involved Officer #7:

Star #: [REDACTED] Employee ID# [REDACTED]
 DOA: [REDACTED] 2015, Police Officer, UOA: [REDACTED] District,
 DOB: [REDACTED] 1989, Male, White Hispanic

Involved Officer #8:

Star #: [REDACTED] Employee ID#: [REDACTED] DOA:
 [REDACTED] 1994, Police Officer, UOA: [REDACTED],
 DOB: [REDACTED] 1966, Male, Asian Pacific Islander

Involved Officer #9

Star #: [REDACTED] Employee ID#: [REDACTED]
 DOA: [REDACTED] 1996, Police Officer, UOA: [REDACTED] District,
 DOB: [REDACTED] 1962, Male, White

Involved Individual #1:

[REDACTED] DOB: [REDACTED] 1992, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Sergeant [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <ol style="list-style-type: none"> 1. Searched Mr. [REDACTED] person without justification; 2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and 3. Failed to complete an Investigatory Stop Report and to issue a receipt. 	<p>EXONERATED</p> <p>EXONERATED</p> <p>SUSTAINED</p>
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <ol style="list-style-type: none"> 1. Searched Mr. [REDACTED] person without justification; 	UNFOUNDED

	<p>2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and</p> <p>3. Failed to complete an Investigatory Stop Report and to issue a receipt.</p>	UNFOUNDED EXONERATED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <p>1. Searched Mr. [REDACTED] person without justification;</p> <p>2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and</p> <p>3. Failed to complete an Investigatory Stop Report and to issue a receipt.</p>	UNFOUNDED UNFOUNDED EXONERATED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <p>1. Searched Mr. [REDACTED] person without justification;</p> <p>2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and</p> <p>3. Failed to complete an Investigatory Stop Report and to issue a receipt.</p>	NOT SUSTAINED NOT SUSTAINED SUSTAINED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <p>1. Searched Mr. [REDACTED] person without justification;</p> <p>2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and</p> <p>3. Failed to complete an Investigatory Stop Report and to issue a receipt.</p>	NOT SUSTAINED NOT SUSTAINED SUSTAINED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <p>1. Searched Mr. [REDACTED] person without justification;</p>	NOT SUSTAINED

	<p>2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and</p> <p>3. Failed to complete an Investigatory Stop Report and to issue a receipt.</p>	NOT SUSTAINED NOT SUSTAINED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <p>1. Searched Mr. [REDACTED] person without justification;</p> <p>2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and</p> <p>3. Failed to complete an Investigatory Stop Report and to issue a receipt.</p>	NOT SUSTAINED NOT SUSTAINED NOT SUSTAINED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <p>1. Searched Mr. [REDACTED] person without justification;</p> <p>2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and</p> <p>3. Failed to complete an Investigatory Stop Report and to issue a receipt.</p>	UNFOUNDED UNFOUNDED UNFOUNDED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <p>1. Searched Mr. [REDACTED] person without justification;</p> <p>2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and</p> <p>3. Failed to complete an Investigatory Stop Report and to issue a receipt.</p>	NOT SUSTAINED NOT SUSTAINED NOT SUSTAINED

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 6: Prohibits disobedience of an order or directive, whether written or oral.

General Orders

1. General Order G04-01, Preliminary Investigations (Effective October 2015)

Special Orders

1. Special Order S04-13-09, Investigatory Stop Systems (effective June 2016)

Federal Laws

1. U.S. Constitution, Fourth Amendment

State Laws

1. 725 ILCS 5/107-14, Temporary Detentions
2. 725 ILCS 5/108-1.01, Protective Pat Down

V. INVESTIGATION²**a. Interviews**

████████³ gave a statement to the Independent Police Review Authority (IPRA) on May 5, 2017. In his statement, █████ told investigators that on April 25, 2017, he was working as a communications technician for Comcast, when he was confronted in an alley by an irate driver who demanded that he move his work vehicle so that she could pass through the alley. █████ refused to move his trademarked Comcast vehicle. After several minutes of waiting and being belligerent with him, the woman reversed back out of the alley. Approximately five to ten minutes later, a marked police unit pulled up behind him and four officers exited the vehicle and approached him with their guns drawn and pointed at him.

According to █████ the officers threatened to shoot him if he did not put his hands up. █████ put his hands up. One of the officers moved toward him and escorted him out of his vehicle. █████ was then handcuffed, tightly. The officers demanded his identification and he refused to give it to them, stating that he wanted to call his supervisor. The officers then went into his pocket and took his license out without his consent. █████ demanded to know what was happening and why he was being treated that way. Eventually, an officer explained to him that they were responding to a call that █████ drew a gun on a woman during a confrontation.

████████ denied that there was a confrontation and denied having or pulling a gun. Mr. █████ told the officers that the handcuffs were on too tightly, but no one loosened or removed them. The officers then searched the cabin of his work van. After completing the search of his vehicle, the officers got in their squad car and drove away. Mr. █████

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Attachment 11 & Attachment 12

stated that he suffered minor injuries to his wrist, but he did not seek medical treatment.

Sergeant [REDACTED]⁴ gave a statement to the Civilian Office of Police Accountability on May 10, 2018. According to Sergeant [REDACTED] he heard the call of a man in an alley with a gun over the radio. Sergeant [REDACTED] then drove to the scene and parked. Sergeant [REDACTED] was the first unit to arrive. Later, at least four more units joined the call. When Sergeant [REDACTED] arrived at the scene, he found a vehicle matching the description provided in the call in the alley. That description was "a beat-up" Comcast vehicle with the specific license plate number that matched [REDACTED] vehicle. [REDACTED] was there alone. Sergeant [REDACTED] could not recall for certain if he had his weapon drawn but believed he would have drawn his gun based on the nature of the call.

Sergeant [REDACTED] could not recall whether he or another officer handcuffed [REDACTED]. Sergeant [REDACTED] recalled [REDACTED] being resistant to identifying himself but did not physically resist being cuffed. [REDACTED] indicated that his license was in his vehicle, which led officers to look in the vehicle for the license. Sergeant [REDACTED] could not recall if he himself conducted the pat down [REDACTED] and his vehicle or if he ordered the other officers to do it. Sergeant [REDACTED] accepted responsibility for the pat down as the supervising officer on the scene. Sergeant [REDACTED] stated that only the front compartment of [REDACTED] vehicle was searched.

Sergeant [REDACTED] told [REDACTED] about the call of the gun and why they were there. [REDACTED] initially denied that he had a confrontation with anyone, then later spoke about having a brief confrontation with the 9-1-1 caller. Sergeant [REDACTED] later spoke with the 911 caller. She recounted her version of events to Sergeant [REDACTED]. According to Sergeant [REDACTED] the woman told him that she was driving down the alley, when she encountered [REDACTED]. There was another male and female with [REDACTED] at the time. She honked for [REDACTED] to move his vehicle, but instead of moving, he produced a pistol and started waving it around at her, which caused her to be fearful for her safety. Sergeant [REDACTED] asked if she wanted the man arrested for aggravated assault. She declined, saying that she was fearful of the residents of the building at which [REDACTED] was working.

The 911 caller told Sergeant [REDACTED] that she believed [REDACTED] may have given the weapon to the woman who was no longer present. Sergeant [REDACTED] noted that [REDACTED] could not produce a work order or anything to justify his presence in the area, though his plates were registered to Comcast. No weapons were recovered on the scene. Eventually, Sergeant [REDACTED] decided to release [REDACTED] because the caller did not wish to sign a complaint. After his release, [REDACTED] wanted nothing to do with the officers, so a stop receipt was not issued. Sergeant [REDACTED] estimated that the entire encounter took approximately ten minutes.

There was no Investigatory Stop Report found for this stop. Sergeant [REDACTED] stated that there may have been a report completed, but a technical issue could have deleted it. Sergeant [REDACTED] stated that he would have been required to complete the Investigatory Stop Report as the supervising officer.

⁴ Attachment 37

Officer [REDACTED]⁵ gave a statement to COPA on May 14, 2018. In his statement, Officer [REDACTED] told investigators that he was partnered with Officer [REDACTED] at the time of the incident. Officer [REDACTED] recalled receiving two calls about a person with a gun driving a Comcast vehicle. Officer [REDACTED] did not recall a description of the suspect. Officer [REDACTED] stated that he was not the first responder. Officer [REDACTED] told investigators that he was an assisting officer and was responsible for crowd control and preventing interference. Officer [REDACTED] stated that he was not close enough to hear any of the conversations with [REDACTED] and did not believe he had any direct interaction with Sergeant [REDACTED]. Officer [REDACTED] admitted that someone using his beat or workstation searched [REDACTED] license plate number. Officer [REDACTED] stated that he did not complete an Investigatory Stop Report because he was only an assisting unit.

Officer [REDACTED]⁶ gave a statement to COPA on May 9, 2018. In his statement, Officer [REDACTED] recalled responding to the call of a man with a gun in a Comcast vehicle. Officer [REDACTED] stated that he was more of a back-up officer who protected the scene and was on hand for backup if it was necessary. He recalled the investigation being "textbook," in that [REDACTED] was cooperative and understanding about the incident and the officers were appropriately positioned strategically. Officer [REDACTED] did not recall searching the license plate or name of the suspect.

Officer [REDACTED] could not recall any particular conversation with [REDACTED] though he recalled [REDACTED] asking Sergeant [REDACTED] for an explanation about what was happening. Officer [REDACTED] recalled looking into the vehicle but did not enter the vehicle. Officer [REDACTED] recalled that the incident took place in a T-shaped alley. Officer [REDACTED] did not recall [REDACTED] being handcuffed at all. Officer [REDACTED] could not recall if he was the first car to respond. Officer [REDACTED] noted that this was a civilian-initiated investigation, so the normal processes may not have occurred.

Officer [REDACTED]⁷ gave a statement to COPA on May 10, 2018. In his statement, Officer [REDACTED] told investigators that he did not specifically recall responding to the call of the man with the gun in a utility van, though he did recall hearing the call over the radio. He could not recall the description of the suspect. Officer [REDACTED] could not recall getting out of the vehicle, nor anything about the scene. At the time of the incident, Officer [REDACTED] would have been partnered with Officer [REDACTED]. Officer [REDACTED] believed that they were likely late to the scene and that's why he did not recall much about it.

Officer [REDACTED]⁸ gave a statement to COPA on March 14, 2018. In his statement, Officer [REDACTED] told investigators that he did not recall responding to the person with a gun call but was in the vicinity of the call at the time. Officer [REDACTED] could not recall whether he communicated in any way about the call. Officer [REDACTED] was unfamiliar with [REDACTED]. Officer [REDACTED] stated that he had no knowledge of the incident except for his communications with COPA regarding his statement. Officer [REDACTED]

⁵ Attachment 40

⁶ Attachment 38

⁷ Attachment 35

⁸ Attachment 36

█████ stated his belief that he was not involved in the stop because it was his practice to complete Investigatory Stop Reports.

Officer █████⁹ gave a statement to COPA on May 16, 2018. In his statement, Officer █████ told investigators that he did not recall responding to the call of the man with a gun driving a Comcast vehicle. After reviewing the event query and various documents, he did not recall any of the events in question.

Officer █████¹⁰ gave a statement to COPA on May 9, 2018. In his statement, Officer █████ told investigators that he remembered responding to the call, but he never got out of the car. Officer █████ recalled Sergeant █████ going to the call. Officer █████ told investigators that once his team realized the scene was safe, they left the area. They did not interact with █████.

Officer █████¹¹ gave a statement to COPA on March 19, 2018. In his statement, Officer █████ told investigators that he responded to the call of the man with the gun. Officer █████ stated that when he and his partner, Officer █████ arrived at the scene, they were the third or fourth car to respond. █████ vehicle was parked in the alley, though there was room for cars to pass. There were a number of plainclothes and uniformed officers present already. The officers present were conducting a field interview with █████ though he could not hear the conversation from his distance. Officer █████ initially watched from his vehicle, then got out of his vehicle to search the area for a gun, which he did not find.

Officer █████ stated that he did not interact with █████ directly, did not perform a protective pat down, nor did he the search of the vehicle. Officer █████ did not speak with the caller who reported the man with the gun. Officer █████ stated that he did not complete an Investigatory Stop Report because there was no crime committed and because he was only an assisting unit. Officer █████ believed that the responsibility fell to the officer conducting the investigation.

Officer █████¹² gave a statement to COPA on March 19, 2018. In his statement, Officer █████ stated that he recalled responding to the call of a person with a gun. When he arrived on scene, there were already several officers present, including Sergeant █████. Officer █████ recalled the van being stopped in the alley. Officer █████ told investigators that █████ was already detained in handcuffs when they arrived. Officer █████ could not recall any actions that he took once on scene, including whether he spoke to █████, did a protective pat down on █████ person, searched or pat down the vehicle, or whether he spoke with any other officers or witnesses at the scene. The only thing Officer █████ recalled was that he did not handcuff █████ and that he did not speak with the caller.

Officer █████ stated that he did not complete an Investigatory Stop Report because he did not believe he was obligated to under the circumstances. Officer █████

⁹ Attachment 34

¹⁰ Attachment 39

¹¹ Attachment 59

¹² Attachment 50

further explained that he did not believe he was obligated to complete the Investigatory Stop Report because he did not initiate the stop and there was a sergeant on scene.

Lieutenant [REDACTED]¹³ gave a statement to COPA on April 11, 2019. In his statement, Lieutenant [REDACTED] stated that he did not recall anything about that day. After being shown the event query showing him responding to the call, he still did not recall anything about this particular stop. Lieutenant [REDACTED] told investigators that the person who responds to the call first and makes the first contact with the subject is typically responsible for completing the Investigatory Stop Report. He stated that if he had responded to the call, based on the situation presented, he likely would have approached carefully; would do a protective pat down of the person and vehicle, if he had access to the vehicle; and would handcuff the person if he were alone. If the caller was willing to sign a complaint, even though no gun was recovered, the suspect would still be arrested for aggravated assault.

b. Digital Evidence

Event Query [REDACTED] Audio¹⁴ is a recording of a call to OEMC. A female caller stated that there was a black “gentleman” blocking the alley of the [REDACTED] block of North [REDACTED] in a Comcast van with the license plate [REDACTED]. The caller maintained that she was blocked in the alley and the man was waving a gun around. The dispatcher told the caller she would send someone out. The caller admonished the dispatcher to “wake up.”

Event Query [REDACTED]¹⁵ is a recording of a call to OEMC. A female caller stated that there was a black “gentleman” waving a gun in the air behind [REDACTED] N. [REDACTED] driving a “beat up” Comcast vehicle. The caller provided the license plate [REDACTED]. The caller stated that it looked like the man had an altercation with someone. The caller stated that she was blocked in the alley. The caller identified herself as [REDACTED]. She provided a phone number of [REDACTED]. The caller stated that she was unsure of her own phone number because she had only recently gotten it.

Zone [REDACTED] Audio 16:12¹⁶ is a city-wide radio transmission about a male black waving a gun, standing near a Comcast vehicle, in the alley behind [REDACTED] N. [REDACTED]

Zone [REDACTED] Audio 16:12 to 16:38¹⁷ captured a number of officers responding to the call of the person with a gun. The dispatcher updated the address to [REDACTED] N. [REDACTED] in the alley. The dispatcher repeated that the caller was blocked in the alley and had a child in the car. Beat [REDACTED] confirmed he was in route. Beat [REDACTED] radioed in an updated license plate of “FP [REDACTED]”. The dispatcher relayed back that the plates were registered to AT&T Broadband services. Beat [REDACTED] radioed in asking to speak with the caller. The dispatcher confirmed that the caller was available. Beat [REDACTED] confirmed that they were still present and assisting on the call. Beat [REDACTED] radioed in to say that he spoke with the caller then requested to close out the event.

¹³ Attachment 63

¹⁴ Attachment 21

¹⁵ Attachment 23

¹⁶ Attachment 25

¹⁷ Attachment 29

c. Documentary Evidence**Assignment & Attendance reports show that:**

- Beat [REDACTED] consisted of Sergeant [REDACTED]
- Beat [REDACTED] consisted of Officer [REDACTED] and Officer [REDACTED]
- Beat [REDACTED] consisted of Lieutenant [REDACTED]
- Beat [REDACTED] consisted of Officer [REDACTED] and Officer [REDACTED]
- Beat [REDACTED] consisted of Officer [REDACTED] and Officer [REDACTED]
- Beat [REDACTED] consisted of Officer [REDACTED] and Officer [REDACTED] and
- Beat [REDACTED] consisted of Lieutenant [REDACTED]

Caboodle GPS Snapshot ¹⁸ for the area shows that Beats [REDACTED] and [REDACTED] were all present in the vicinity of 1621 N. Keystone Avenue:

- Beat [REDACTED] was at or near 1621 N. Keystone from approximately 16:17 hours to 16:29 hours;
- Beat [REDACTED] was at or near 1621 N. Keystone from approximately 16:18 hours to 16:33 hours;
- Beat [REDACTED] was in the area from approximately 16:22 hours to 16:23 hours; and
- Car [REDACTED] Beat [REDACTED] was at or near 1621 N. Keystone from approximately 16:30 hours to 16:35 hours

Event Query [REDACTED] ¹⁹ details officers responding to a “person with a gun” call at 16:11. According to the event query, a male black was waving a gun around in the alley. The suspect was driving an old Comcast truck with the license plate [REDACTED] The plates were linked to A&T Broadband Services. Beat [REDACTED] ran a search of [REDACTED] name in the LEADS system.

Event Query [REDACTED] ²⁰ is substantially similar to Event Query [REDACTED] though it reflects a call from a different phone number.

d. Additional Evidence

Pod [REDACTED] ²¹ did not capture any relevant events.

Beat [REDACTED] **Dashcam**²² captured the officers following behind an unmarked police SUV with its lights and sirens going but did not capture any of the events that led to the complaint. The camera appeared to shut-off abruptly, prior to the officers reaching the scene. It is unclear whether they are responding to the incident in question.

VI. LEGAL STANDARD

¹⁸ GPS did not show Beats [REDACTED] or [REDACTED] but they appeared on the event query.

¹⁹ Attachment 13

²⁰ Attachment 13

²¹ See enclosed CDs

²² See encloses CDs

a. Possible findings and burdens of proof

For each allegation COPA must make one of the following findings:

Sustained - where it is determined the allegation is supported by a preponderance of the evidence;

Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;

Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or

Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct violated Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See *e.g.*, *People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VII. ANALYSIS

Allegations against Sergeant █

It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, Sergeant █ searched Mr. █ person without justification.

Sergeant █ is EXONERATED of the allegation that he searched Mr. █ person without justification. Rule 6 requires officers to comply with all orders and directives. According to Special Order S04-13-09, "for a Protective Pat Down, a sworn member must possess specific and articulable facts, combined with rational inferences from these facts, that the suspect is armed and dangerous or reasonably suspects that the person presents a danger of attack to the sworn member or others in the area." Reasonable Articulable Suspicion depends on the totality of the circumstances which the sworn member observes and the reasonable inferences that are drawn

based on the sworn member's training and experience. Reasonable Articulable Suspicion can result from a combination of particular facts, which may appear innocuous in and of themselves, but taken together amount to reasonable suspicion. Reasonable Articulable Suspicion should be founded on specific and objective facts or observations about how a suspect behaves, what the subject is seen or heard doing, and the circumstances or situation in regard to the suspect that is either witnessed or known by the officer.

The officers were responding to a fairly specific call of a black male with a gun, driving a Comcast vehicle with the license plate [REDACTED] in the alley behind [REDACTED] N. [REDACTED] Upon arriving to the alley behind [REDACTED] N. [REDACTED] officers found [REDACTED] a black male, near a Comcast vehicle with the license plate "FP [REDACTED]" Sergeant [REDACTED] the first responding officer, noted that [REDACTED] matched the description provided. The alignment of these factors with the details of the call gave the officers a reasonable articulable suspicion that [REDACTED] was the offender identified by the 9-1-1 caller and that he would be armed as the call suggested. Therefore, it would be reasonable for officers to cautiously approach [REDACTED] as if he had a gun. Additionally, Sergeant [REDACTED] recalled that [REDACTED] was verbally resistant to the officers attempts at investigating the claim, and denied having any altercation whatsoever, though he later admitted to having an argument with the 9-1-1 caller. Given the belief that [REDACTED] had a gun, his reluctance to cooperate with the investigation, and his refusal to identify himself, a protective pat down for a gun would be warranted for officer safety. Sergeant [REDACTED] could not recall if he conducted the pat down or instructed a subordinate to do it, but felt it was warranted given the nature of the call.

For the foregoing reasons, Sergeant [REDACTED] is EXONERATED of the allegation that they searched [REDACTED] without justification.

It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, Sergeant [REDACTED] searched the vehicle Mr. [REDACTED] was driving at the time without justification.

Similar to the above, Sergeant [REDACTED] is EXONERATED of the allegation that they searched Mr. [REDACTED] vehicle without justification. Rule 6 requires officers to comply with all orders and directives. Special Order S04-13-09, Reasonable Articulable Suspicion depends on the totality of the circumstances which the sworn member observes and the reasonable inferences that are drawn based on the sworn member's training and experience. As discussed above, there was reasonable articulable suspicion that [REDACTED] would be armed based on the complaint from the 9-1-1 caller. That reasonable articulable suspicion extended to areas within his reach. At the time [REDACTED] was approached by officers, he was sitting inside of his vehicle. It was reasonable to assume that, had [REDACTED] been armed, he may have hidden a weapon in his vehicle. Further, [REDACTED] directed the officers to the inside of his vehicle to find his license. The officers conducted a pat down of the front cabin of the vehicle only. Based on the nature of the call and the concern for officer safety, it was reasonable and within policy for officers to conduct a protective pat down of the Comcast vehicle in [REDACTED] possession.

It is alleged that Sergeant [REDACTED] failed to complete an Investigatory Stop Report and to issue a receipt.

This allegation is SUSTAINED. Rule 6 requires officers to comply with all directives and orders. Special Order S04-13-09 requires that:

Sworn members who conduct an Investigatory Stop and, if applicable, a Protective Pat Down or other search in a public place, are required to submit an Investigatory Stop Report into the Investigatory Stop Database. All of the factors that support Reasonable Articulable Suspicion in order to temporarily detain an individual for investigation, and, if applicable, all of the factors that support Reasonable Articulable Suspicion in order to perform a Protective Pat Down will be documented in the narrative portions of the database.

Sergeant [REDACTED] has accepted responsibility for the Investigatory Stop Report not being completed. In addition to being the highest-ranking officer to respond, Sergeant [REDACTED] was also actively engaged in the Investigatory Stop of [REDACTED]. Specifically, Sergeant [REDACTED] told investigators that he either personally pat down [REDACTED] and his vehicle or he instructed the other responding officers present to do it. Due to his direct involvement in the Investigatory stop, Sergeant [REDACTED] would have been equally culpable for failing to complete the Investigatory Stop Report as any of the other responding officers.

Allegations against Officers [REDACTED] and [REDACTED]

It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, Officers [REDACTED] and [REDACTED] searched Mr. [REDACTED] person without justification.

The allegations are UNFOUNDED. Special Order S04-13-09 requires that, during an Investigatory Stop, to conduct a protective pat down an officer must have reasonable articulable suspicion that the suspect is armed and dangerous based on the totality of circumstances. Rule 6 requires officers to comply with all orders and directives. Beat [REDACTED] which consisted of Officers [REDACTED] and [REDACTED] was the first to clear from the call more than twenty minutes earlier than the next unit. This is consistent with their recollections and lack thereof. Officers [REDACTED] and [REDACTED] based on their statements, received the call, drove by the scene, and left without ever exiting their vehicles. We believe that Officers [REDACTED] and [REDACTED] did not participate in the investigatory stop of [REDACTED] and thus could not have searched his person; therefore, these allegations are UNFOUNDED as they relate to each officer.

It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, Officers [REDACTED] and [REDACTED] searched the vehicle Mr. [REDACTED] was driving at the time without justification.

The allegations are UNFOUNDED. Similar to the previous analysis, Special Order S04-13-09 requires that an officer must have reasonable articulable suspicion that the suspect is armed and dangerous based on the totality of circumstances to conduct a protective pat down. Based on the evidence discussed above, we find that Officers [REDACTED] and [REDACTED] did not assist in the

investigatory stop of [REDACTED] and thus could not have conducted a search of the vehicle driven by [REDACTED]. These allegations are UNFOUNDED as they relate to each officer.

It is alleged that Officers [REDACTED] and [REDACTED] failed to complete an Investigatory Stop Report and to issue a receipt.

Officers [REDACTED] and [REDACTED] are EXONERATED of this allegation. Rule 6 requires officers to comply with all directives and orders. Special Order S04-13-09 requires that officers who conduct an Investigatory Stop complete an Investigatory Stop Report. As explained above, because Officers [REDACTED] and [REDACTED] were not meaningfully engaged in the Investigatory Stop, they were not required to complete an Investigatory Stop Report. Officers [REDACTED] and [REDACTED] are EXONERATED of this allegation.

Allegations 1 and 2 against Officers [REDACTED] and [REDACTED]

It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, the aforementioned officers searched Mr. [REDACTED] person without justification.

The allegations are NOT SUSTAINED. Similar to Allegation 1 against Sergeant [REDACTED] Special Order S04-13-09 requires that, during an Investigatory Stop, to conduct a protective pat down an officer must have reasonable articulable suspicion that the suspect is armed and dangerous based on the totality of circumstances. The circumstances here clearly warrant a protective pat down. The officers were responding to a call of a man, driving a specific vehicle with a specific license plate, in a specific alley, waving a gun around. Upon reaching the specific alley, the officers found a man near the specific vehicle with the specific license plate. It would be reasonable to believe this individual may also have a gun based on the other factors matching.

Based on these circumstances and the compelling explanation given by Sergeant [REDACTED] COPA believes that if any of these officers engaged in a protective pat down under these circumstances, it would be exonerated; however, due to the officers' inability to clearly recall who was responsible for which action, we cannot say which officers deserve exoneration. Officers [REDACTED] and [REDACTED] appeared to be more involved than others but both deny or cannot remember engaging in the pat down. It is unclear what Officers [REDACTED] and [REDACTED] did on scene whatsoever, though the evidence is clear that they were present. Officer [REDACTED] recollection of the events is suspiciously lacking when compared to that of his partner, Officer [REDACTED]. There is not enough evidence to decide whether any of these officers searched Mr. [REDACTED] person. For these reasons, this allegation is NOT SUSTAINED as it relates to each of these officers.

It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, the aforementioned officers searched the vehicle Mr. [REDACTED] was driving at the time without justification.

This allegation is also NOT SUSTAINED against the officers. Similar to the preceding analysis, reasonable articulable suspicion is required to conduct a protective pat down of a vehicle as well. Again, the officers were responding to a call of a man, driving a specific vehicle with a

specific license plate, in a specific alley, waving a gun around. Upon reaching the specific alley, the officers found a man near the specific vehicle with the specific license plate, only without a gun in his hand. Based on the consistency between the call and the other facts presented, the officers would have been reasonable in believing that [REDACTED] may have hidden a weapon prior to their arrival. The officers that engaged in the search of Mr. [REDACTED] vehicle would have been exonerated; however, again, there is insufficient evidence to prove that any of the officers engaged in the search because of their inability to recall and articulate their actions. Therefore, this allegation is NOT SUSTAINED as it relates to each officer.

Allegation 3 against Officers [REDACTED] and [REDACTED] only:

It is alleged that Officers [REDACTED] and [REDACTED] failed to complete an Investigatory Stop Report and to issue a receipt.

This allegation is SUSTAINED. Rule 6 requires officers to comply with all directives and orders. Special Order S04-13-09 requires that officers who conduct an Investigatory Stop complete and Investigatory Stop Report. While Sergeant [REDACTED] accepted the responsibility for Stop Report not being completed, he is not the only officer who was responsible to complete the report.

Officers [REDACTED] and [REDACTED] were operating Beat [REDACTED] and were the first to radio in [REDACTED] actual plate of [REDACTED] not [REDACTED] that the 9-1-1 caller provided. This happened three minutes prior to Sergeant [REDACTED] on Beat [REDACTED] running [REDACTED] name. This would put them among the first responders. Officer [REDACTED] stated that he was an assisting unit responsible for making keeping the scene secure and making sure no one interfered and could not hear any of the conversations between [REDACTED] and Sergeant [REDACTED]. Officer [REDACTED] stated that he recalled looking into [REDACTED] vehicle, recalled [REDACTED] questioning Sergeant [REDACTED] about what happened, and recalled the T-shape of the alley in which everything transpired.

As compared to many of the other responding officers, it is clear that Officers [REDACTED] and [REDACTED] were not mere casual observers and played active roles in the Investigatory Stop. As such, they also would have been required to complete the Investigatory Stop Report. For these reasons, this allegation is SUSTAINED as they relate to each officer.

It is alleged that Officer [REDACTED] failed to complete an Investigatory Stop Report and to issue a receipt.

Officers [REDACTED] and [REDACTED] arrived on the scene approximately 1 minute after Sergeant [REDACTED] and remained the entire duration of the event. Officer [REDACTED] recalled responding to call about a man with a gun and engaging in some level of investigation when he searched the scene for a weapon. He stated that he waited in the car a few minutes and then briefly searched the scene. Officer [REDACTED] stated that he did not interact with [REDACTED] or the caller regarding the incident. He also did not search [REDACTED] person or vehicle. Although Officer [REDACTED] contributed to some degree, his level of involvement in the incident is clear and convincing that he would not have had to complete an Investigatory Stop Report for this incident. Therefore, this allegation is UNFOUNDED.

It is alleged that Officer [REDACTED] failed to complete an Investigatory Stop Report and to issue a receipt.

As it relates to Officer [REDACTED] the allegation is NOT SUSTAINED. Officer [REDACTED] who was in the same car as Officer [REDACTED] could not recall his own actions, including whether he would have done a protective pat down of [REDACTED] or his vehicle. Officer [REDACTED] also explained that he did not complete an Investigatory Stop Report because he did not recall engaging in pat down or search but not that he did not initiate the stop or contribute to the investigation. When read together with Sergeant [REDACTED] testimony that he may have instructed other responding officers to do the pat down, it becomes possible that Officer [REDACTED] did conduct the pat down of at least the vehicle as Beat [REDACTED] Officer [REDACTED] and Officer [REDACTED] based on the GPS, would have arrived within one minute of Sergeant [REDACTED]. However, Officer [REDACTED] does not recall his level of involvement or whether he was involved at all. Therefore, this allegation is NOT SUSTAINED.

Allegations against Officers [REDACTED] and [REDACTED] only:

It is alleged that Officers [REDACTED] and Officer [REDACTED] failed to complete an Investigatory Stop Report and to issue a receipt.

This allegation is NOT SUSTAINED. Rule 6 requires officers to comply with all directives and orders. Special Order S04-13-09 requires that officers who conduct an Investigatory Stop complete and Investigatory Stop Report. Officers [REDACTED] and [REDACTED] were on Beat [REDACTED] on April 25, 2017. Beat [REDACTED] was the first responding unit over the radio per the event query. According to the Zone Audio, they were present and actively assisting with the response to the man with the gun call, including speaking with the 9-1-1 caller. Beat [REDACTED] also closed the event with OEMC, which suggests that they were involved from whenever they arrived until the situation was completely resolved. However, neither officer recalled responding to the call or assisting in the investigation in any way. Clearly, they were involved because there would be no reason for them to know that anyone spoke with the 9-1-1 caller except for by being present. However, without more information, COPA cannot conclude what was the nature of their on-scene activities. For this reason, the allegation is NOT SUSTAINED.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Sergeant [REDACTED]

Sergeant [REDACTED] complimentary, training and disciplinary history were considered in recommending discipline in this case. Sergeant [REDACTED] does not have a history of discipline. Sergeant [REDACTED] also provided a detailed account of the events and provided rationale for his weapon was drawn and the complainant was searched. He also took responsibility for not completing, or

ensuring his officers complete, the Investigatory Stop Report. Therefore, COPA recommends a discipline of Violation-Noted.

b. Officer [REDACTED]

Officer [REDACTED] complimentary, training and disciplinary history were considered in recommending discipline in this case. Officer [REDACTED] received a Reprimand for a violation related to a search or handling of personal property that occurred February 23, 2016. COPA recommends a Reprimand in this case.

c. Officer [REDACTED]

Officer [REDACTED] complimentary, training and disciplinary history were considered in recommending discipline in this case. Officer [REDACTED] does not have a history of discipline. COPA recommends a discipline of Violation-Noted.

IX. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
Sergeant [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <ol style="list-style-type: none">1. Searched Mr. [REDACTED] person without justification;2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and3. Failed to complete an Investigatory Stop Report and to issue a receipt.	<p>EXONERATED</p> <p>EXONERATED</p> <p>SUSTAINED</p>
Officer [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <ol style="list-style-type: none">1. Searched Mr. [REDACTED] person without justification;2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and3. Failed to complete an Investigatory Stop Report and to issue a receipt.	<p>UNFOUNDED</p> <p>UNFOUNDED</p> <p>EXONERATED</p>

Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <ol style="list-style-type: none"> 1. Searched Mr. [REDACTED] person without justification; 2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and 3. Failed to complete an Investigatory Stop Report and to issue a receipt. 	UNFOUNDED UNFOUNDED EXONERATED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <ol style="list-style-type: none"> 1. Searched Mr. [REDACTED] person without justification; 2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and 3. Failed to complete an Investigatory Stop Report and to issue a receipt. 	NOT SUSTAINED NOT SUSTAINED SUSTAINED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <ol style="list-style-type: none"> 1. Searched Mr. [REDACTED] person without justification; 2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and 3. Failed to complete an Investigatory Stop Report and to issue a receipt. 	NOT SUSTAINED NOT SUSTAINED SUSTAINED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <ol style="list-style-type: none"> 1. Searched Mr. [REDACTED] person without justification; 2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and 3. Failed to complete an Investigatory Stop Report and to issue a receipt. 	NOT SUSTAINED NOT SUSTAINED NOT SUSTAINED

Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <ol style="list-style-type: none"> 1. Searched Mr. [REDACTED] person without justification; 2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and 3. Failed to complete an Investigatory Stop Report and to issue a receipt. 	NOT SUSTAINED NOT SUSTAINED NOT SUSTAINED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <ol style="list-style-type: none"> 1. Searched Mr. [REDACTED] person without justification; 2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and 3. Failed to complete an Investigatory Stop Report and to issue a receipt. 	UNFOUNDED UNFOUNDED UNFOUNDED
Officer [REDACTED] [REDACTED]	<p>It has been alleged that on 25 April 2017, at approximately 1612 hours, in the alley of the 1600 block of North Keystone Avenue, you:</p> <ol style="list-style-type: none"> 1. Searched Mr. [REDACTED] person without justification; 2. Searched the vehicle Mr. [REDACTED] was driving at the time without justification; and 3. Failed to complete an Investigatory Stop Report and to issue a receipt. 	NOT SUSTAINED NOT SUSTAINED NOT SUSTAINED

Approved:



July 31, 2019

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A**Assigned Investigative Staff**

Squad#:	
Investigator:	
Supervising Investigator:	
Deputy Chief Administrator:	Andrea Kersten